



TOWN OF AMENIA

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ZONING BOARD OF APPEALS MEETING MONDAY, MAY 23, 2016 7 P.M.

PRESENT: Jeff Barnett-Winsby
Terry Metcalfe
Paula Pelosi
Kevin Cassone
ABSENT: Dave Menegat

CONSULTANTS: Dave Everett, Attorney
Ron Graiff, R.F. Engineer
George Janes, Visual Consultant
John Andrews, Engineer
Matt Kerwin, SBA Attorney

MOTION TO OPEN THE ZONING BOARD OF APPEALS MEETING AT 7:02 P.M. was made by Terry Metcalfe, seconded by KevinCassone

VOTE TAKEN - MOTION CARRIED UNANIMOUSLY

Chairman Barnett-Winsby started off the meeting stating he felt there may be a conflict with the application before the Board. The woman that is head of the Board that Mr. Barnett-Winsby works for is one of the opposing members for the SBA Cell Tower. She owns land adjacent to the parcel in the application. After speaking with Mr. Everett, the Boards attorney, it was determined there is not a conflict. Chairman Barnett-Winsby will seek an opinion from the Town Ethics Board as to whether this is a situation where he would need to recuse himself. Mr. Everett asked Matt Kerwin, SBA attorney if he had a problem with Chairman Barnett-Winsby. Mr. Kerwin did not.

Mr. Kerwin went briefly over the project for 67 Kent Road. The pole will be set back from the road from the west about 1337'; from the nearest structure to the west about 1215'; the road itself about 1613'; and neighboring property lines, 208' to the north, 956' to the south and almost a mile from the Connecticut State Line. Due to the challenging topography, the tower itself will be a 174' monopole with Verizon antennas located at 170' topped with a lightning

rod. Verizon is proposing 12 antennas plus a microwave dish. There will be a chain length fence locked with FCC warning signs and additional space for future co-locators.

Verizon engineers monitor the operations of the facilities throughout the network. They determine gaps in coverage and facilities that are at or near capacity. Verizon is required by the FCC to provide substantial service in their area. They are also required to address future capacities. The propagation maps that were submitted in 2015 show gaps in coverage along Route 22, South Amenia Road and Amenia Union Road. Before this site was selected they were out in the field evaluating other sites within Verizon's search ring coverage area. They looked at HarlemValley Sand and Gravel who were unwilling for SBA to use their site. Others were lack of coverage needed for the tower. Most of the alternative sites were co- location on the Pawling Rubber Smoke Stack facility and the Crown Water Tank. Neither will provide the same coverage.

Kevin Cassone stated that there will be a MTA tower that should cover Route 22 corridor coming. Homeland Security is mandating a tower. Neither of these can be stopped. Also the towers that were relicensed in the town were required to have emergency generators on their grounds.

Matt Kerwin told the Board that SBA had already reached out to MTA and the SBA tower would not work for MTA. Likewise they looked at the tower on DeLavernge Hill and this would not give them the coverage needed. Mr. Cassone did not mean the tower on DeLavernge Hill as an alternative, he just gave it as an example of how well hidden it was. Ron Graiff added that the alternative sites were not compared at similar height and comparisons should be at the same height.

Matt Kerwin continued that SBA had looked at two alternative sites; Maxon Mills, Pawling Rubber, TDDSO and the train station needs to be addressed. The water tank is not going to happen as well as silos. Two raw land sites will be looked at and other property in the area which was addressed. Dave Everett felt SBA needs to look at the MTA Tower and the proposed Homeland Tower site.

George Janes then spoke to the Board about visual. He feels that the application before the Board reflects old and new information. The Board must decide what is current and what is not. That is up to the applicant to provide current information in the application. Regarding the visual simulations, they are very good.

This tower is not the worst case tower, however. SBA is planning to have co-locators on the tower. He showed the Board what the co-locators would look like on the same picture. That would be a big impact. With the propagation maps there are two issues; differences between

the applications and why there are such big differences and tower height. Performance of the network is related to tower height. He showed on the new map the gap that Verizon is trying to fill. He compared the old application to the new application maps and there was a significant difference between them.

Camouflaging is not discussed in the application. They are showing the basic monopole. There are more possibilities. In structures and on structures is a way to camouflage the tower. Also the pole may be decommissioned. What happens then? The biggest visual impact will be on the neighbors who border the property and the nearest roads. There is also a question on how tall the tower will be. It was brought up that from the photographs taken there was not that much of an impact. Is there a way to mitigate those issues? Mr. Janes stated the poles could be camouflaged which would be a good solution. There are two towers presently in the town, one on DeLavernne Hill and one on Depot Hill. They are both well camouflaged.

Discussed were utility poles are along the highway that basically are not noticed. This pole is significantly taller than a utility pole but with camouflaged brown stick it can become less offensive. If the Board is unable to find a suitable structure such as the steeple of the church, the water tower or the smoke stack, correctly designed would be the best. Chair Barnett-Winsby felt that these expensive properties would have a financial hardship if the tower were located within their view shed. Ms. Pelosi felt that view is a big deal around the town of Amenia.

Mr. Everett went on to state that the Board must take a look at public accessible areas and the law speaks about looking at visual impacts from public areas. However SBA is seeking an area variance for height. The Board must look at what impact does it have on the neighborhood. This must be looked at with the area variance and the value of their property and whether it is diminished or not.

Mr. Barnett-Winsby felt that to cover the Wassaic area location on the smoke stack in Wassaic might do that. John Metcalfe stated that it is important to provide coverage for the Wassaic area more than Kent Road where there is less population. Chair asked in terms of the FCC requirements where are the gaps they are requiring that you cover. Matt Kerwin stated as part of Verizon's license they must provide coverage in their licensed area, which includes Dutchess County. He continued there is coverage from Amenia north and Dover south.

Mr. Everett asked if Verizon was trying to get coverage over in Connecticut? Ron Graiff stated that Verizon Wireless, Orange County Poughkeepsie Limited Partnership called the Band B Carrier in New York State. In Connecticut Verizon Wireless is a Band A Carrier. Connecticut is AT&T's licensed area. The way the antennas are positioned on the tower they will not provide significant coverage in the Connecticut area.

Mr. Everett felt there were comments of Mr. Janes that needed a response from SBA. Mr. Janes felt that if SBA were to render camouflage it would mitigate the surrounding property owners if this is going to be the site. However, if there are co-locators coming on this pole it is a problem. Ms. Pelosi asked why the co-locators would want to be lower on the pole. Mr. Kerwin said they can't put them all at the same height. It is based on what their network demands are, if they can get coverage at that height they will take it. Ms. Pelosi then asked why Verizon couldn't get coverage at a lower height. Mr. Kerwin stated that is why the propagation maps were provided to look at the coverage differences between 174', 145', 120' and 70'. Those maps stated coverage at those lower heights were not sufficient to address Verizon's needs.

If the Board agrees with Mr. Janes to see the pole camouflaged, this may be a reasonable solution. Ron Graiff added that a pole like that the metal shaft itself would be about a 1 ½ ' to 1 ¾' in diameter then you put an antenna that is 8" deep each side plus the mounting brackets and wrap it in fiberglass you will have close to 2 ½ '. This is more attractive but you will face a wider bottom. The carriers don't like this way as they like separate antennas as they can control each particular frequency. There are antennas today where all 4 frequencies transmit from the same antenna. That way the pole at the top only needs 3 antenna's Alpha, Beta and Gamma. The carrier makes their presentation with the opening line SBA with Verizon Wireless. It should be SBA and Verizon Wireless.

Chair Barnett-Winsby felt that trying to find more mitigated visual solutions would be positive and try to identify what the real goal in coverage; is it the most coverage, is it Route 22, is it Wassaic. Without this information it is hard for the Board to evaluate whether a site is good or not. Also looking at multiple site solutions that can be camouflaged would be positive. He also asked if there was room for emergency services on these towers. Matt Kerwin felt they must ask SBA. Ron Graiff stated that most towers consolidators when presenting the application always offer colocation for municipal services on the tower. They are usually at the top of the pole where the lightening rod is and that only increases the height of the pole.

Dave Everett spoke to the Board in drawing to a conclusion, ask SBA to look at the MTA site, the DDSO Tower, and a visual simulation of the brown pole. George Janes felt that the Board may want to ask the applicant for camouflage techniques for the tower. The Board felt those were reasonable. Matt Kerwin will need to respond.

Ron Graiff, Radio Frequency Consultant Engineer for the Board stated his job was to make sure the Board has enough information to make an educated decision about the lack of coverage. Does the carrier have a sufficient gap in coverage in the area he serves? What minimal signal strength is needed to provide the service? The company out of New Jersey Mr. Graiff has never

seen them in the Harlem Valley; they don't understand the Harlem Valley only New Jersey. They use 7 ½ minute topo maps. What signal strength is one looking at? This is a rural area not suburban. They speak of negative 105DBM (a way of measuring signal strength for suburban areas) which is weaker than minus 100DBM. The smaller the number, will get you greater coverage. The applicant should attempt to explain the justification for any signal strength. The map shown has no scale lines, no identified roads and used a third of the page. There are differences between the two propagation maps one made by Verizon and one by Vecon. Between the 2015 and 2016 applications they used two different models. The issues are where are the gaps in coverage, how big are those gaps and what sites will fill those gaps in coverage? None of the maps presented give us enough indication. One can see new coverage but there is also duplicated coverage. They do not want to provide coverage where there is already coverage as this will cause interference with the system and cause it not to perform the best. There is a problem with the model and a problem with the presentation. The applicants need to figure out a way to give the Board the correct information in a format that is understandable. The Board needs to ask Verizon to do a "drive test" done 4 times a year to show where the gaps in coverage are. They also can bring a crane to the site to do a "CW Drive Test", hang an antenna from the crane, transmit a signal at different heights and drive the area. This will tell what that site will actually cover. Due to the Tax Relief Act of 2012, once the tower is up they can put as many antennas on that tower without coming back to the Board for approval and can go up as much as 20' without approval from the Board. SBA needs to make the model worst case which could be 10% taller.

John Andrews addressed the Board. The application for the Tower is located in two districts, RA and RR, the pole itself is located in the RA district. It is also in the HPO, the SPO; the aquifer overlay district and portions in the stream corridor overlay. Matt Kerwin added that the pole itself is not within these districts. Mr. Andrews continued under the code 121-46 the applicant needs to obtain a Special Permit from the ZBA and a variance for the 174' tower as the maximum allowed is 70' in the RA district. This will also need to go to the Planning Board. This is a major project as the structure height exceeds 80 feet, Code 121-60C. Future submittals shall include sufficient documentation to substantiate compliance with special requirement for new towers. This tower is to be inspected annually by a professional engineer licensed in NY State and a copy of that inspection report submitted to the Town of Amenia Code Enforcement officer.

The original application requested a waiver from the Town's height limitation in regard to this project. The variance is the correct procedure. The Ag Data Statement has an incorrect identified tax map number. Future submittals shall include documentation related to operation noise associated with the facility. Because there will be more than one acre disturbed the applicant shall provide a fully detailed Stormwater Pollution Prevention Plan (SWPPP). Future submittals should document the need for a new proposed access road and explain why the

existing farm road cannot be used. The Zoning Summary Table indicates that the required setbacks from the property line are determined by the height of the pole which is identified as 174'. The total pole height in the application is 180' which includes an optional 6' lightning rod.

Mr. Andrews continued vehicle traffic to the facility needs to be clarified. Distance from any property line needs to be determined. Driveway plan includes a drainage culvert and needs size, material, slope and point of discharge identified. The driveway plan indicates the location of two pole culvert crossings. There is no explanation or documentation establishing the reason for their location. The details of the proposed compound should indicate the limits of the proposed gravel surface with respect to the fence line. The new access road requires several stone wall crossings. A detail should be provided.

Mr. Andrews went on to state that the plans he reviewed were submitted in February 2015. He further stated that he has a first cousin who owns property adjacent to this property whom he has not spoken to in a long time. He wanted this disclosure.

Mr. Everett asked about the time frame. Mr. Kerwin said that he would consult with SBA. He also felt that SBA could address comments in about another two weeks for next month's meeting. Mr. Everett said that Federal Law states 150 days and we need to know where we are in the process. He also felt that maybe the Board would need to meet more than once a month in order to keep the process moving.

Mr. Andrews stated that the written record suggests that the application was never rendered complete for lack of information.

Mr. Everett asked if the DEC Natural Heritage letter had been addressed. Matt Kerwin stated he would double check on it. Mr. Everett continued was the reclamation plan ever submitted. Mr. Kerwin would check to see if that was done and get a proposal on it. He asked if a letter from a certified engineer would suffice. Mr. Andrews added the Code has very specific requirements for removal. The law requires a copy of the proposed decovenant Mr. Everett stated as well as insurance information and proof of liability insurance not less than 3 million dollars with the town named as additional insured as stated in 121-46D.

Mr. Everett continued the need to ask SBA for colocation for EMS. Mr. Andrews recommended that the fire company take a look at this. Mr. Andrews felt there may be some wetlands; however they were not significant size. In the EAF it is stated there are 2 acres of wetlands, but not sure where they are. The Code requires the engineer report on non-ionizing reduction. Mr. Kerwin stated it had not been done yet. Mr. Everett felt SBA should go over the list and submit everything that is needed.

The submission will need to go to DC Planning as it is off a County road. A new Ag Data Statement needs to be submitted.

One of the ZBA members needed to recuse himself as his property is close to the site. Mr. Everett felt that this could be addressed at the next meeting. The neighbor's attorney submitted a letter this afternoon from Isotrope that will need to be addressed by the applicant. Kevin Cassone asked why we are asking for all this information if there is perhaps a different site in mind. Mr. Everett responded the applicant has a limited time to get this information. Mr. Kerwin felt that SBA would rather have all letters addressed in summary rather than answering each letter individually. Chair felt get all the letters in and then make one comment.

Jessie Janowitz asked about the coverage data. Ron Graiff stated SBA needs to inform us of what models they are using, they should use Verizon's model as it is Verizon's system. Resubmit with Verizon's model on the correct maps. Then submit the drive test results of the existing system and we will overlay that on the calculated existing coverage, verify the accuracy of the propagation tool and from that point on it will have been verified. Ms. Janowitz asked if the Board might want Verizon to provide dropped call data.

Michelle Babcock, Jacobowitz and Gubits, represented the surrounding property owners. Many of the consultant's comments tonight are addressed in this letter specifically that this application remains incomplete. We urge the Board to consider the co-locators, as per code 121-46 B.1.a. and increase the height up to 15%. We would also ask the Board to consider the drive by test and the dropped call data. We will be sending a letter to the Board consolidating this data. Kevin Cassone asked who they were representing. Ms. Babcock stated Oblong Ridge and the property on the other side of Kent Road.

Mr. Everett received the letter regarding the escrow and will respond.

MOTION TO APPROVED THE MINUTES OF APRIL 28, 2016 was made by Kevin Cassone, seconded by Terry Metcalfe

VOTE TAKEN - MOTION CARRIED UNANIMOUSLY

MOTION TO CLOSE THE ZBA MEETING was made by Terry Metcalfe, seconded by Kevin Cassone

VOTE TAKEN - MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Susan M Metcalfe
ZBA Secretary

The foregoing represents unapproved minutes of the Zoning Board of Appeals meeting held on May 23, 2016 and are not to be construed as official until approved.

_____Approved as read

____X____Approved with: deletions, corrections or additions-one minor change 8/15/2016